

**IN THE UNITED STATES DISTRICT COURT  
OF THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

<b>BLUE SPIKE, LLC</b> <i>Plaintiff</i>	§ § § § § § §	<b>No. 6:15cv584-RWS-CMC</b>
<b>AUDIBLE MAGIC CORPORATION</b> <i>Defendant</i>	§ § § § § § §	

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<b>AUDIBLE MAGIC CORPORATION</b> <i>Counterclaim Plaintiff</i>	§ § § § § § §	<b>BLUE SPIKE, LLC, BLUE SPIKE, INC., and SCOTT A. MOSKOWITZ</b> <i>Counterclaim Defendants</i>
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**ORDER**

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On June 24, 2015, the Court issued an Order denying Audible Magic's letter briefs requesting permission to file *Daubert* motions regarding Dr. Ahmed Tewfik's and Dr. Papakonstantinou's expert reports. Before the Court is the following pending motion:

**Audible Magic's motion for reconsideration and objections to the June 24 rejection of *Daubert* letter briefs (Docket Entry #30).<sup>1</sup>**

In its motion, Audible Magic focuses on Dr. Papakonstantinou, asserting Magistrate Judge Payne recently excluded expert opinions which used the same methodology applied by Dr.

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<sup>1</sup> Although the Local Rules contemplate objections and a motion for reconsideration being considered by the District Judge, *see* 28 U.S.C. § 636 (b)(1)(A), Audible Magic sets forth new information not considered by the undersigned in denying the letter brief regarding Dr. Papakonstantinou. The Court will treat Audible Magic's objections and motion as a motion for rehearing. The parties are advised of their rights to appeal the undersigned's decisions to the District Judge.

Papakonstantinou in this case. See *DataQuill Ltd. v. Huawei Tech. Co. Ltd., et al.*, Cause No. 2:13cv633, Docket Entry No. 146 (June 11, 2015)(Payne, J.). Audible Magic makes no substantive argument regarding the Court's denial of its request to file a *Daubert* motion regarding Dr. Tewfik's expert opinion, stating only it objects to the denial for "all the reasons outlined in its letter brief and reply." (Docket Entry #30 at 3).

The Court, having reviewed the relevant briefing, is of the opinion the motion for rehearing should be **GRANTED** as to Dr. Papakonstantinou and **DENIED** as to Dr. Tewfik. Audible Magic is granted permission to file its *Daubert* motion regarding Dr. Papakonstantinou.

**IT IS SO ORDERED.**

**SIGNED this 18th day of August, 2015.**

  
CAROLINE M. CRAVEN  
UNITED STATES MAGISTRATE JUDGE